

Appl. No. : 10/017,494
Filed : December 7, 2001

REMARKS

Personal Interview

Applicants thank the Examiner for the courtesy extended to Applicant's representative in the personal interview at the Examiner's offices on April 5, 2005. The present response is consistent with the matters discussed in that interview.

Amendments

Claims 1-33, previously withdrawn, are cancelled herewith.

Rejections Under 35 U.S.C. §103(a)

The Examiner has continued to reject Claims 34-65 as being unpatentable over "admitted prior art" in view of U.S. Patent No. 6,179,691 to Lee et al.

As discussed in the interview and agreed upon with the Examiner, Lee et al. does not teach or suggest end-point detection during deposition, such that the previous amendments overcome this reference.

"Admitted Prior Art" Is Not Admitted Nor Is It Prior Art For Obviousness Rejections

As discussed during the interview, the Examiner relies upon a combination of an end-point detection system (Lee et al.) with "admitted prior art" teaching electrochemical mechanical deposition (ECMD) process. In reality, nowhere in the background section of the present application is ECMD referred to as "prior art." In fact, U.S. Patent No. 6,176,992 issued on January 23, 2001, less than a year prior to the filing of the filing date of the present application and after the filing date of the provisional application from which the present application takes priority. Similarly, U.S. Application Serial No. 09/740,701 is now issued as U.S. Patent No. 6,534,116, issued March 18, 2003, and the third referenced application, Application No. 09/961,193, was filed on September 20, 2001 and remains pending.

Thus, the disclosures that reference ECMD in the background of the application are only potentially prior art under 35 U.S.C. §102(e). Because the present application and all of the referenced applications in the background section of the present application were subject to

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common obligations of assignment at the time of the invention, these references are not available under 35 U.S.C. §103(c) for use in obviousness rejections.

Accordingly, Applicants submit that, as all of the claims recite ECMD, no combination of any end-point detection system with the so-called "admitted prior art" can be used in obviousness rejections.

CONCLUSIONS

In view of the foregoing amendments and remarks, Applicants respectfully submit that the application is in condition for allowance and request the same. If, however, some issue remains that the Examiner feels can be addressed by Examiner Amendment, the Examiner is cordially invited to call the undersigned for authorization.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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